

SENATE BILL 436

By Bell

AN ACT to amend Tennessee Code Annotated, Title 44,
Chapter 17 and Title 47, relative to companion
animals.

WHEREAS, it is the intent of the General Assembly to provide protection to both companion animals and consumers that buy companion animals from retail pet stores in Tennessee; and

WHEREAS, it is the intent of the General Assembly to preempt any local ordinance or resolution adopted to regulate the sale, delivery, barter, auction, broker, or transfer of a dog to a person from a retail pet store; and

WHEREAS, the regulation of retail pet store dog sales is a matter of general statewide interest that requires statewide regulation; and

WHEREAS, local mandates prohibiting retail pet stores from selling dogs, if left unchecked, create an unworkable patchwork of regulations throughout the state; and

WHEREAS, retail pet stores are regulated as businesses under local government authority and consumers are protected under the Tennessee Consumer Protection Act of 1977, compiled in title 47, chapter 18, part 1; and

WHEREAS, this legislation regulates the sale, delivery, giving away, or transferring of dogs from a retail pet store to another person or entity, prohibits retail pet stores from recklessly altering or providing false information required for the sale of dogs by retail pet stores, and provides fines for violations; and

WHEREAS, it is the intent of the General Assembly to clarify that current and future federal, state, and local laws pertaining to animal welfare, animal cruelty, animal protection, retail pet store zoning, and retail pet store permitting that do not ban a retail pet store from

selling dogs as sourced by the retail pet store to the public, are to be enforced and not affected by this part; now, therefore,

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 44, Chapter 17, is amended by adding the following new part:

44-17-801.

As used in this part:

(1) "Companion animal" means any dog, defined as any live dog of the species *Canis familiaris*;

(2)

(A) "Retail pet store" means a retail establishment:

(i) That sells companion animals to the public; and

(ii) Where the salesperson, the companion animal buyer, and the companion animal for sale are physically present during the sales transaction so that the buyer may personally observe the companion animal and help ensure its health prior to taking possession of the companion animal;

(B) "Retail pet store" does not include a flea market, as defined in § 44-17-102; and

(3) "Veterinarian" means a person who is licensed to practice veterinary medicine in this state under § 63-12-112.

44-17-802.

(a) At the time of sale of a companion animal at a retail pet store, an owner or employee of the retail pet store shall provide the purchaser with a written notice, in at least twelve-point bold-face type, listing the following:

(1) A statement that no owner or employee of a retail pet store may sell, deliver, barter, auction, broker, give away, or transfer a companion animal:

(A) That is less than eight (8) weeks old;

(B) Without a valid pet health inspection certificate signed by a veterinarian, including records of the companion animal's medication and immunization. For purposes of this subdivision (a)(1)(B), a pet health inspection certificate is only valid for thirty (30) days after the date the animal was examined by the veterinarian who signed the certificate;

(C) Without a permanent implanted identification microchip;

(D) To a person who is younger than eighteen (18) years of age as verified by valid photo identification; or

(E) Acquired from anyone listed as an animal abuser under the Tennessee Animal Abuser Registration Act, compiled in title 40, chapter 39, part 1;

(2) The name and address, if known, of the breeder that bred the companion animal;

(3) The United States department of agriculture license number of the breeder that bred the companion animal, if applicable, and a copy of the most current unredacted United States department of agriculture inspection report for the breeder;

(4) A description of the companion animal, including breed, sex, and color, if known;

(5) The date the retail pet store took possession of the companion animal;

(6) The date of sale;

(7) The name, address, and telephone number of the purchaser; and

(8) The sale price of the companion animal.

(b) The written notice may be contained in a written contract, an animal history certificate, or a separate document.

(c) An employee or owner of the retail pet store shall certify the written notice by signing the document in which it is contained.

(d) A retail pet store shall maintain a copy of the written notice, or the document in which the written notice is contained, for at least two (2) years from the date of the sale. The owner, manager, or an employee of the retail pet store shall make the copy of the written notice, or the document in which the written notice is contained, available for inspection by the animal control agency for the municipality or county in which the retail pet store is located.

44-17-803.

A retail pet store shall not obtain companion animals for retail sale from a breeder, if the breeder:

(1) Has been issued a final determined report of a direct noncompliance violation by the United States department of agriculture under the Animal Welfare Act, 7 U.S.C. § 2131 et seq., for a period of two (2) years prior to offering for sale, delivering, bartering, auctioning, brokering, giving away, or transferring a companion animal; or

(2) Has had three (3) or more finally determined reports of noncompliance documented in any report issued by the United States department of agriculture under the Animal Welfare Act, 7 USC § 2131 et seq., for a period of twelve (12) months before offering for sale, delivering, bartering, auctioning, brokering, giving away or transferring a companion animal.

44-17-804.

(a) This part preempts any local ordinance or resolution adopted to regulate the sale, delivery, barter, auction, broker, or transfer of a companion animal to a person from a retail pet store. No county or municipality may adopt an ordinance or resolution that regulates or prohibits any conduct in the area covered by this part. No local governmental entity may enforce an ordinance or resolution that regulates or prohibits any conduct in the area covered by this part. Any existing orders, ordinances, or rules adopted or enforced contrary to the terms of this part are null and void.

(b) The authority of a political subdivision to regulate pet stores may not be inferred from its proprietary, authority, home rule status, or any other inherent or general power.

(c) All counties, municipalities, and local government agencies retain authorization to adopt and enforce ordinances, resolutions, and regulations pertaining to animal cruelty, animal welfare, animal protection, retail pet store zoning, and retail pet store permitting that do not prohibit a retail pet store from selling companion animals as sourced by the retail pet store to the public.

44-17-805.

(a) It is an offense for any retail pet store that sells companion animals and has obtained a local business license in the municipality in which it operates to violate any of the requirements in §§ 44-17-802(a)(1)(A), (B) and (E) and 44-17-803.

(b) An offense under subsection (a) is a Class C misdemeanor punishable by fine only, as follows:

(1) For a first offense, a fine of not more than one thousand dollars (\$1,000);

(2) For a second offense committed within twelve (12) months of the first offense, a fine of not more than two thousand dollars (\$2,000); and

(3) For a third or subsequent offense committed within twelve (12) months of the first offense, a fine of not more than five thousand dollars (\$5,000).

SECTION 2. This act shall take effect July 1, 2019, the public welfare requiring it.